IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

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S.B. Sales Tax Revision No. 79/2007

Assistant Commercial Taxes Officer, Flying Squad,

Rajasthan-I, Jaipur

Versus

M/s. N.C.R. Corporation India Pvt. Ltd., Pondichery

Date of order :: August 9, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. Amit Ratnawat on behalf of Mr. R.B. Mathur for the petitioner

BY THE COURT:

This revision is not only barred by limitation of 80 days, but also the matter seems to be covered by various decisions of this

court. Therefore, for the reasons given in the application under Section 5 of the Limitation Act, the delay in filing the revision is condoned and the matter is heard for admission.

By concurrent findings, two appellate authorities of the Revenue including the Tax Board vide impugned order dated 18.06.2002, have held that since the relevant documents accompanied the goods in the vehicle at the time of checking, there was no breach of Section 78(2)(a) of the RST Act, 1994 (for short, 'the Act', hereinafter) and therefore, the premise taken by the learned ACTO for imposition of penalty under Section 78(5) that the goods were brought within the State not for resale but for execution of works contract within the State, could not furnish any basis for imposition for the said penalty.

The Tax Board has rightly held that the jurisdiction to decide whether the goods were used for execution of some works contract within the State or for resale, is for the regular assessing authority

who has jurisdiction over the assessee and it is not for the ACTO, Flying Squad to undertake that exercise of assessment at the time of exercise of jurisdiction under Section 78(5) of the Act.

No error is found in said order of the Tax Board and no question of law arises for consideration by this court under Section 86 of the Act. The revision is devoid of merit, therefore, the same is dismissed. A copy of this order be sent to the assessee.

(Dr.VINEET KOTHARI),J.

Pramod
Item No. 26